

## **REMARKS**

With this Response, claims 72 and 73 are amended. Applicants respectfully request that new claim 77 be entered and considered. Therefore, claims 72-77 are pending.

### **CLAIM REJECTIONS - 35 U.S.C. § 112**

Claim 73 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 73 is amended herein. Applicants respectfully submit that the lack of antecedent basis for "the qualification" has been overcome with the amendment. Therefore, Applicants respectfully request that this rejection be withdrawn.

### **CLAIM REJECTIONS - 35 U.S.C. § 103**

Claims 72-76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,012,051 to Sammon et al. (hereinafter "Sammon") in view of US Patent No. 6,131,087 to Luke (hereinafter "Luke") and further in view of US Patent No. 6,286,002 to Axaopoulos et al. (hereinafter "Axaopoulos") and US Patent No. 5,774,121 to Stiegler (hereinafter "Stiegler"). Applicants respectfully submit that the cited references fail to render obvious these claims for at least the following reasons.

Claim 72 as amended herein recites the following:

receiving at the intermediary subsystem a customer-defined product configuration description having a general product indication including at least an automobile manufacturer indication and a model indication and a set of optional product attributes, the set including a ranking from among multiple, hierarchical tiers of ranks for each attribute to indicate a discrete level of willingness of the customer to negotiate a modification of the particular attribute;

comparing the customer-defined product configuration to available configurations indicated in an electronic product database stored on a network device to determine whether the customer-defined product configuration is available from a manufacturer and to determine whether a seller has the general product with a set of product attributes at least comparable to the customer-defined set of product attributes, based on the ranking indicated for each attribute;

**generating at the intermediary subsystem and transmitting from the intermediary subsystem a request for quote (RFQ) individually identified with an identification number for the customer-defined product configuration including the attribute rankings** to a networked subsystem of the seller determined to have the general product with the set of comparable attributes;

receiving at the intermediary from the seller subsystem a quote indicating a price and a product attribute modification to propose to the customer a product configuration comparable to the customer-defined product configuration, the modification based on the attribute rankings; and indicating the quote to the customer.

Thus, Applicants' claim recites generating and transmitting a RFQ, including the attribute rankings indicated for each attribute, and a modification of the customer-defined product configuration is received that is based on the attribute rankings of the RFQ. Applicants note that according to the claim language, an intermediary receives a specific customer-defined product configuration and generates the RFQ with the attribute rankings, and sends the RFQ to an identified seller. The identified seller proposes a modification of the product configuration.

The Office Action at page 6 recognizes that Sammon fails to disclose or suggest RFQs. Applicants similarly assert that Sammon fails to disclose or suggest RFQs, and thus also fails to disclose or suggest an RFQ having attribute rankings that indicate a discrete level of willingness of a customer to negotiate a modification of a particular attribute, as in Applicants' claim 72.

Of the remaining cited references, as Applicants have understood the references, they similarly fail to disclose or suggest at least the feature of an RFQ having attribute rankings that indicate a discrete level of willingness of a customer to negotiate a modification of a particular attribute, as recited in Applicants' claim. Applicants note that the Office Action at page 6 specifically cites the Luke reference as disclosing negotiations and providing lists of matches or near-perfect matches of solicitations and offers. The Office Action further asserts that Luke discloses "automated evaluation of potential sellers/proposals once a list is identified by matching, based on further buyers' selected parameters."

As Applicants have understood the reference, it appears that the system of Luke operates "backwards" as compared to what is recited in Applicants' claim. In Luke, after a seller is matched to a buyer, the seller selects a buyer "once the originator [i.e., the seller] has identified solicitation data that fits **his needs** [i.e., the seller's]," see col. 9, lines 49 to 56, emphasis added. In Applicants' recited claim, in contrast, the buyer provides a configuration to an intermediary that selects the seller based on determining what seller has the general product with a set of attributes at least comparable to the customer-defined set of attributes. The seller in Luke then compares the set points (the preferred range points) of the solicitation data to the seller's points, and the transaction is completed if "the two parties have agreed to an exchange of resources based on the originator of the offer data's (sic) preferred points." Col. 10, lines 6 to 8. In contrast,

Applicants' claim recites that a seller proposes a modification based on the attribute ranking of the RFQ. Thus, Luke is seller-focused, and the comparison of solicitation data points is made to seller-specified parameters. Whether or not the seller-specified parameters are comparable to the attribute rankings recited in Applicants' claim, which Applicants do not concede, Applicants recite a customer-defined product configuration that is matched to what a seller has, whereas Luke discusses sellers selecting buyers that meet their selected parameters. Thus, the system of Luke appears to be backwards to what is recited in claim 72.

Further, Applicants submit that Luke fails to disclose or suggest an RFQ having attribute rankings that indicate a discrete level of willingness of a customer to negotiate a modification of a particular attribute, as in Applicants' claim 72. As recited in Applicants' claim, the RFQ includes the attribute rankings. A proposed modification by the seller of the customer-defined product configuration is received based on the attribute rankings indicated in the RFQ.

Applicants note that according to Luke, the solicitation data is received at the central computer (which the Office Action is interpreting as the "intermediary") from the entity that generated the solicitation data. As interpreted by the Office Action, the solicitation data is comparable to an RFQ as recited in Applicants' claim. Applicants further note that according to these interpretations in the Office Action, what is being compared to an RFQ is generated by the potential buyer, and not, in contrast to Applicants' claim, by the intermediary. Thus, Luke, fails to disclose or suggest an RFQ with attribute rankings generated by an intermediary, in contrast to the claimed invention. Furthermore, as already suggested above, the other references fail to correct the defects of Luke. Thus, whether alone or in combination, the cited references fail to disclose or suggest at least one feature of the claimed invention, and so fail to render obvious the invention as recited in claim 72.

The remaining claims depend from claim 72, and are therefore patentable over the cited references for at least the same reasons set forth for claim 72.


## **CONCLUSION**

For at least the foregoing reasons, Applicants submit that the rejections of the claims have been overcome herein, placing all pending claims in condition for allowance. Such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-referenced application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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Theresa Belland

08/03/06

Date